

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

Case No. PA-03-0025A

4 **SANDRA L. MCCARTHY, P.A.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR A
LETTER OF REPRIMAND**

5 Holder of License No. 2116
6 For Practice as a Physician Assistant
7 In the State of Arizona.

8 The Arizona Regulatory Board of Physician Assistants ("Board") considered this
9 matter at its public meeting on May 18, 2005. Sandra L. McCarthy, P.A. ("Respondent")
10 appeared before the Board with legal counsel Stephen Myers for a formal interview
11 pursuant to the authority vested in the Board by A.R.S. § 32-2551. The Board voted to
12 issue the following findings of fact, conclusions of law and order after due consideration
13 of the facts and law applicable to this matter.

14 **FINDINGS OF FACT**

15 1. The Board is the duly constituted authority for the regulation and control of
16 physician assistants in the State of Arizona.

17 2. Respondent is the holder of license number 2116 for the performance of
18 healthcare tasks in the State of Arizona.

19 3. The Board initiated case number PA-03-0025A after receiving a complaint
20 alleging Respondent inappropriately obtained samples of a prescription drug and
21 supplied them to her husband, also a physician assistant, who provided them to someone
22 else.
23

24 4. Respondent testified it was wrong for her to take the samples that were for
25 patient use and that she is very remorseful for her action. Respondent testified she

1 impulsively took the samples only for her husband's use. Respondent noted she had no
2 knowledge that her husband gave the samples to anyone else until four months later.
3 Respondent testified that one year later her husband's former employer filed a lawsuit
4 against her and her husband to claim damages. Respondent stated her fear that any
5 information she gave to the Board would be used in that lawsuit led her to initially be less
6 forthcoming with the Board. Respondent noted her attorney at the time did not advise
7 her that anything she told the Board was confidential and could not be used in the civil
8 litigation.
9

10 5. Respondent testified that two months after she made the initial statement to
11 the Board she voluntarily submitted a completely forthright statement with complete
12 disclosure. Respondent stated she had learned a lot from the experience and her actions
13 were unquestionably wrong. Respondent testified she has been a nurse since 1981 and
14 a PA since 1998 and has never had a complaint of any kind filed against her.
15 Respondent testified she is dedicated to her patients and is a competent provider.
16

17 6. Respondent was asked if she believed there was any medical necessity to
18 her husband trying the drug. Respondent testified there was not. Respondent was
19 asked why then did she bring the samples home at her husband's request. Respondent
20 testified she did not question her husband and when he asked for the drug, she brought it
21 home.
22

23 7. Respondent was asked to go over the circumstances leading to her filing
24 the second response to the Board. Respondent testified she initially gave her statement
25 to the Board in October claiming that sometime in March 2002 she removed three sample
boxes each containing three tablets from a storage cabinet at the cardiology practice

1 where she works. Respondent's statement also claimed she gave the tablets to her
2 husband for his personal use. According to the original statement her husband used one
3 tablet, developed a headache and did not use the remainder. Respondent's original
4 statement also claimed that without her knowledge her husband gave the remaining
5 tablets to another physician.

6
7 8. Respondent's revised statement claimed she removed six sample boxes,
8 each containing three tablets from the cardiology office where she works and gave them
9 to her husband for his personal use. Respondent's revised statement claimed she was
10 aware her husband had given the open sample package and two full packages to the
11 other physician. However, Respondent's revised statement informed the Board that she
12 became aware in August 2002 that her husband gave the remaining three sample
13 packages to another man. Respondent testified she filed the second statement after
14 agonizing about having lied in her first statement to the Board.

15 9. Respondent was asked if there had been any changes at the medical
16 practice where she is employed regarding the use of samples. Respondent testified
17 some samples are now stored in a locked cabinet. Respondent was asked if there was a
18 ledger in the office where she would have documented when she gave samples to
19 patients. Respondent said there was not, but she would document it in the patient's
20 chart.
21

22 CONCLUSIONS OF LAW

23 1. The Board on the Regulation of Physician Assistants possesses jurisdiction
24 over the subject matter hereof and over Respondent.
25

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances above constitute unprofessional conduct pursuant to A.R.S. § 32-2501(21)(i) ("[p]rescribing or dispensing controlled substances or prescription-only drugs for which the physician assistant is not approved or in excess of the amount authorized pursuant to this chapter"); 32-2501(21)(j) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of a patient or the public"); 32-2501(21)(p) ("[f]ailing or refusing to maintain adequate records on a patient"); 32-2501(21)(s) ("[p]rescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes"); 32-2501(21)(bb) ("[k]nowingly making a false or misleading statement on a form required by the board or in written correspondence or attachments furnished to the board"); and 32-2501(21)(kk) ("[p]rescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical examination of that person or has previously established a professional relationship with the person. . .").

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that

Respondent is issued a Letter of Reprimand for inappropriately dispensing a prescription-only medication and for the remaining violations listed above.

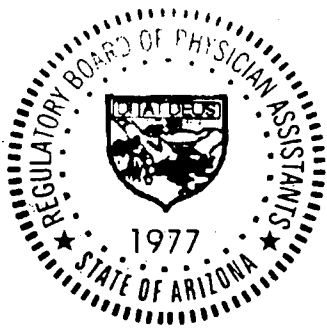
RIGHT TO PETITION FOR REHEARING

Respondent is hereby notified that she has the right to petition for a rehearing. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after service of this Order and

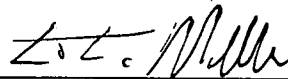
1 pursuant to A.A.C. R4-17-403, it must set forth legally sufficient reasons for granting a
2 rehearing. Service of this order is effective five (5) days after date of mailing. If a motion
3 for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it
4 is mailed to Respondent.

5 Respondent is further notified that the filing of a motion for rehearing is required to
6 preserve any rights of appeal to the Superior Court.

7 DATED this 8th day of February, 2006



ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS



TIMOTHY C. MILLER, J.D.
Executive Director

13
14 Original of the foregoing filed this
8th day of FEBRUARY, 2006 with:

15 Arizona Regulatory Board of
16 Physician Assistants
17 9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

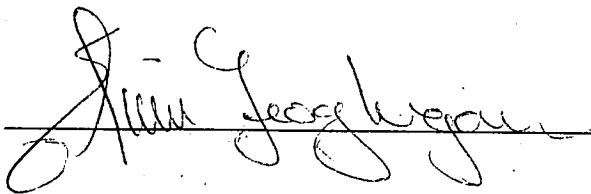
18 Executed copy of the foregoing
19 mailed by U.S. certified mail this
8th day of FEBRUARY, 2006, to:

20 Stephen Myers
21 Myers & Jenkins, PC
22 3003 North Central Avenue – Suite 1900
Phoenix, Arizona 85012-2910
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Executed copy of the foregoing
mailed by U.S. mail this
8th day of FEBRUARY, 2006, to:

Sandra L. McCarthy, P.A.
Address of Record

A handwritten signature in dark ink, appearing to read "Alan George", is written over a horizontal line.